

3/5/92

STATE WATER RESOURCES CONTROL BOARD

ADMINISTRATIVE PROCEDURES MANUAL

CHAPTER 4.4

STATE WATER POLLUTION CLEANUP AND ABATEMENT ACCOUNT

This chapter explains the process and responsibilities for the reporting and recordkeeping of the Cleanup and Abatement Account (CAA), and for developing, reviewing, approving, and reimbursing requests for CAA Disbursements.

3/5/92

STATE WATER POLLUTION
CLEANUP AND ABATEMENT ACCOUNT

AUTHORITY

The Cleanup and Abatement Account (CAA) was created by Water Code Sections 13440-13443. The Account is funded by monies received from court judgments and the assessment of administrative civil liabilities.

USE OF THE ACCOUNT

The use of the account is limited to:

- o Contract for services to cleanup a waste or abate the effects of a waste discharge.
- o Remedy an actual or potential unforeseen public health threat.
- o Cover the appropriate administrative, legal, technical, and oversight costs associated with a cleanup effort.
- o Cover appropriate costs associated with administration of the Account.

The following may utilize the account:

- o The State Water Board.
- o The Regional Water Boards.
- o A public agency with the authority to cleanup waste or abate the effects thereof.

MANAGEMENT OF THE ACCOUNT

The management of the Cleanup and Abatement Account is the responsibility of the State Water Board. The Chief, Division of Clean Water Programs will have primary responsibility for the staff functions associated with management of the Account. These management functions will include:

- o Receive all requests for cleanup and abatement funds.
- o Analyze all requests for fund usage.
- o Approve or deny emergency requests for up to \$100,000.
- o Bring non-emergency requests to the State Water Board for their review and approval.
- o When requested by applicants, provide technical or contractual assistance to applicants for use of the fund.
- o Conduct an annual survey of the Regional Water Boards for possible uses of the fund.
- o Review the State Water Board's procedures for use of the fund and update those procedures as necessary.
- o Review progress reports and final reports for funded projects.

SUPPORTING SERVICES FOR MANAGEMENT

The Office of the Chief Counsel and the Division of Administrative Services will assist the Chief of the Division of Clean Water Programs in managing the fund. The Office of the Chief Counsel shall respond to all inquiries regarding any legal question regarding the eligibility of a specific applicant; the eligibility of a specific project; and general legal issues related to the use of the Account. The Division of Administrative Services shall be responsible for establishment and the fiscal administration of the

3/5/92

STATE WATER POLLUTION
CLEANUP AND ABATEMENT ACCOUNT

Account, including making the payments to the applicant. The Division of Administrative Services shall produce a monthly report showing the condition of the fund and all encumbrances. The Division of Administrative Services shall also assume responsibility for preparation of any budgetary documents necessary to appropriately expend these funds.

ALLOCATION OF FUNDS

As the Account is funded principally by civil administrative liabilities and court imposed mandatory remedies, the State Water Board will attempt to distribute Account funds as follows:

1. Provided there are sufficient funds in the Account, each Regional Water Board that contributed funds to the Account in the previous fiscal year will receive an amount equal to the amount expended for staff costs associated with obtaining court ordered fines or administrative civil liabilities during the previous fiscal year. However, reimbursement for staff costs may not exceed 50 percent of the payments contributed by a Regional Water Board to the Account. Funds from the Account will be available to the Regional Water Boards to use for cleanup and abatement activities, including staff costs, within the statutory approval of the fund.
2. Provided there are sufficient funds in the Account, the Chief of the Division of Clean Water Programs will survey the Regional Water Boards, at the beginning of each fiscal year, to obtain a list of cleanup or abatement projects and their expected costs, including staff costs. The State Water Board will be presented this list at a State Water Board meeting in September and will establish the amounts to be allocated to approved projects contained on the list. The State Water Board will attempt to distribute the funds in approximate proportion to the previous fiscal year cash receipts from each Regional Water Board. The State Water Board will attempt to retain at least a minimum balance of \$1,000,000 in the Account to cover unanticipated clean-up situations.
3. Funds for special cleanup and abatement projects not included in the above list, such as emergency projects, will be allocated on a case-by-case basis, provided there are sufficient funds in the Account.

FUNDING CRITERIA

Each application for CAA funds will be judged on its own merits. In general, the State Water Board will give highest priority to proposals that cleanup or abate a condition of pollution.

Agencies requesting funds from the CAA shall provide the following information to the Chief, Division of Clean Water Programs:

- o Name and address of agency requesting funds.
- o Name(s) of entity or person(s) responsible for the discharge of waste.
- o Location of the discharge of waste.
- o A description of the type of discharge which occurred.
- o A description of the waste discharged.
- o A description of the water body affected.

- o A description of the threat to Water of public health.
- o A description of why the responsible party for the discharge cannot or will not cleanup the waste or abate its effects.
- o A list of actions which have been previously taken to cleanup or abate the effects of the waste.
- o A list of actions taken to find other sources for funding.
- o A description of how the proposed cleanup or abatement is to be accomplished.
- o A cost estimate for the proposed cleanup and abatement.
- o A description of the results if funding should be denied.

EMERGENCY REQUESTS

Regional Water Board Executive Officers (or their designee) or public agencies may request emergency funds verbally for amounts up to \$100,000. These requests shall be directed to the Chief, Division of Clean Water Programs. In the absence of that individual, other designated staff should be called in the order listed: the Chief Counsel, the Executive Director, the Chief Deputy Director, the Chief, Division of Administrative Services. Any of these five individuals may review and approve the request. (Attachment 4.4B lists their names and telephone numbers.)

Within one week following the oral request, the requesting agency shall submit the request in writing, and include the information under Funding Criteria and a completed Request for Cleanup and Abatement Funds (Attachment 4.4C). This material must be submitted to the Chief, Division of Clean Water Programs.

NON-EMERGENCY REQUESTS

Non-emergency requests must be in writing. All non-emergency requests must be approved by the State Water Board. To be considered, the request must include information specified in the Funding Criteria, a completed Request for Cleanup and Abatement Funds (Attachment 4.4C), and the specific Board Resolution (Regional Water Board only). If the Chief, Division of Clean Water Programs, determines that the request is eligible for funding, it will be presented to the State Water Board with a staff recommendation.

Decisions by the State Water Board for non-emergency requests should be made within 60 days of receipt of the completed application.

CONTRACTS

Contracts executed by the Regional Water Board consistent with Water Code Section 13304 and funded by the CAA are exempt from General Services review, and may be approved more quickly. When time permits, these contracts should be in writing. Otherwise, Section 13304 allows the Regional Water Board to enter into oral contracts. If the Regional Water Board enters into an oral contract, the terms of the contract must be documented and submitted to the Division of Clean Water Programs. It must be submitted within one week of the date of the oral contract with copies for the Accounting and Contracts Offices.

PROJECT ASSESSMENT/RECOUPMENT OF COSTS

For cleanup and abatement projects, the agency or Regional Water Board shall submit progress reports to the Chief, Division of Clean Water Programs, documenting the progress of the project and the use of funds. The progress reports are due on January 1 and July 1, depending on the start and duration of projects. If the Chief, Division of Clean Water Programs, determines that funds are not being used for the purposes specified by the State Water Board, he may stop further disbursements.

The agency or Regional Water Board shall notify the Chief, Division of Clean Water Programs upon project completion and submit a follow-up report. This report must describe the work accomplished and any fund recoupment. The Division will review the report to verify that the agency performed the work. For projects that were allocated more than \$50,000, the Division of Clean Water Programs may conduct a final inspection of the cleanup project.

The Regional Water Board, in conjunction with the Office of the Chief Counsel, shall pursue the recovery of CAA funds expended for cleanup and abatement when a discharger refuses to perform or pay for the work.

REVERSION OF ENCUMBERED FUNDS

Any funds not committed or expended within 12 months of encumbrance or by the approved project end date (whichever is later) shall be disencumbered. The agency receiving funds has 90 days after project end date to submit a bill. The Chief, Division of Clean Water Programs may grant a time extension if no additional funding is required.

If additional funding is required, approval must be given by the State Water Board or the designated approval authority.

Disencumbered funds are available for other projects.

CLEANUP AND ABATEMENT ACCOUNT MANAGEMENT REPORT

A status report on the Cleanup and Abatement Account will be given in the monthly State Water Control Fund Management Report, prepared by the Accounting Office. This is an ongoing report which identifies all outstanding accounts. It includes all relevant account information outlined in the Cleanup and Abatement Account statement (CAA-1) and sorts the receivable by Region. The report is distributed to each Regional Office, the Division of Clean Water Programs, the Division of Water, and elsewhere as needed.

FUND RESERVE

The State Water Board will attempt to maintain a minimum reserve of \$1,000,000 to cover the cost of a major, unforeseen cleanup.

PROCEDURES

CLEANUP AND ABATEMENT ACCOUNT (CAA)

A. REPORTING AND RECORDKEEPING PROCEDURES FOR COLLECTING MONEY FOR CAA ACCOUNT

<u>WHO</u>	<u>DOES WHAT</u>	<u>REFERENCE</u>
Regional Water Board (RWB) Executive Officer	<ol style="list-style-type: none">1. Determines new liability or adjustment to existing liability.2. Prepares Form CAA-1 and submits it to the SWB Accounting Office.¹	Attachment 4.4A
State Water Board (SWB) Accounting Office	<ol style="list-style-type: none">1. Establishes an account receivable to reflect the liability due the CAA.2. At the end of each month, prepares and distributes the State Water Control Fund Management Report.	

¹ See attached sample "Cleanup and Abatement Account Statement". The Account Number CAA-2-88-902 indicates that this is the second court-directed liability assessment for Region 2 in Calendar year 1988. The balance of the information to be reported on this form should be self-explanatory. Any questions regarding the completion of this form should be directed to the SWRCB Accounting Office.

B. DISBURSEMENTS FOR EMERGENCY FUND REQUESTS

<u>WHO</u>	<u>DOES WHAT</u>	<u>REFERENCE</u>
Public Agency or RWB	<ol style="list-style-type: none"> 1. Determines that they have an emergency requirement for funding to conduct cleanup and abatement work. 2. Orally requests emergency funds up to \$100,000 from SWB. 3. Prepares and submits Request for Cleanup and Abatement Funds form to Division of Clean Water Programs (DCWP) within one week of the oral request. 	Attachment 4.4C
Public Agency or RWB	<ol style="list-style-type: none"> 1. For oral contracts entered under Water Code Section 13304, Agency prepares and submits a written report to DCWP within one week of contract execution. 	
Division of Clean Water Programs (DCWP)	<ol style="list-style-type: none"> 1. Reviews request received from local agencies and Regional Water Boards for compliance with established criteria and approves or rejects the request. 2. Establishes and numbers a project for tracking. 3. For approved requests, signs the Request for Cleanup and Abatement Funds form and forwards it to the SWB Accounting Office for encumbrance. 4. Notifies the appropriate Regional Water Board Executive Officer of any application for funds by a public agency within the Region. 5. Notifies requesting agency of approval or denial of request. 6. Provides copies of the Cleanup and Abatement Fund Request for Payment form to the Regional Water Board or agency. 	Attachment 4.4C Attachment 4.4D
SWB Accounting Office	<ol style="list-style-type: none"> 1. Receives the approved Request for Cleanup and Abatement Funds form and encumbers funds from the CAA. 	
Public Agency or RWB	<ol style="list-style-type: none"> 1. Prepares and submits the Cleanup and Abatement Fund Request for Payment form to the DCWP. 	Attachment 4.4D
DCWP	<ol style="list-style-type: none"> 1. Reviews the request for payment for technical accuracy and sends to Accounting. 	
SWB Accounting Office	<ol style="list-style-type: none"> 1. Reviews the payment request, determines that funds have been encumbered for the project, prepares a claim schedule in the amount requested, and submits request to the State Controller for warrant preparation and distribution. 	

B. DISBURSEMENTS FOR EMERGENCY FUND REQUESTS (CONT.)

<u>WHO</u>	<u>DOES WHAT</u>	<u>REFERENCE</u>
Public Agency or RWB	<ol style="list-style-type: none">1. Submits semiannual reports to the DCWP, documenting progress of the project and use of funds. These reports are due on January 1 and July 1, depending on the start and duration of the project.2. Advises DCWP staff when the project has been completed and prepares a final report.	
DCWP	<ol style="list-style-type: none">1. Reviews the final report to determine that the agency has performed the work for which funds were provided.	

C. DISBURSEMENTS FOR NON-EMERGENCY FUND REQUESTS OVER \$100,000

WHO	DOES WHAT	REFERENCE
Public Agency or RWB	<ol style="list-style-type: none"> 1. Prepares written justification for funds to conduct cleanup and abatement work. If the request is from a Regional Water Board, Regional Water Board approval is required. 2. Submits justification and the Request for Cleanup and Abatement Funds form to DCWP for review and approval. 	Attachment 4.4C
DCWP	<ol style="list-style-type: none"> 1. Reviews the request to determine if the required information is included. 2. Establishes a project file and numbers project for tracking. 3. Notifies the appropriate Regional Water Board Executive Officer of any application for funds by a public agency for a project within the Region. 4. Places the request on the State Water Board's Workshop and Board Meeting Agenda. 5. Notifies public agency or Regional Water Board of State Water Board meeting Agenda Item. 	
SWB	<ol style="list-style-type: none"> 1. Approves or rejects request for funds at a Board Meeting. 	
DCWP	<ol style="list-style-type: none"> 1. Notifies the agency or Regional Water Board of approval or disapproval. 2. If approved, submits the Request for Cleanup and Abatement Funds form to the SWB Accounting Office. 3. Provides copies of the Cleanup and Abatement Fund Request for Payment form to the Regional Water Board or Agency. 	
SWB Accounting Office	<ol style="list-style-type: none"> 1. Receives the approved Request for Cleanup and Abatement Funds form and encumbers funds from the CAA. 	
Public Agency or RWB	<ol style="list-style-type: none"> 1. Prepares and submits the Request for Payment with related invoices to DCWP. 2. Submits semiannual reports to the DCWP, documenting progress of the project and use of funds. These reports are due on January 1 and July 1, depending on the start and duration of the project. 3. Notifies Chief of DCWP of project completion and submits a final report. 	Attachment 4.4D

C. DISBURSEMENTS FOR NON-EMERGENCY FUND REQUESTS OVER \$100,000 (CONT.)

<u>WHO</u>	<u>DOES WHAT</u>	<u>REFERENCE</u>
DCWP	<ol style="list-style-type: none">1. Reviews the Request for Payment for technical accuracy and sends request to Accounting.2. Reviews semiannual progress reports.3. Reviews final report to verify that work has been performed. DCWP may conduct a final inspection of the project.	